

Appl. No. 10/566,627
Response dated 01/23/2009
Reply to Office Action of 10/28/2008

Remarks

In the 10/28/2008 office action, claims 14 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Liu in view of Liles et al. and Takamizawa et al.

Applicant respectfully submits the rejection is improper because Liu does not qualify as 35 U.S.C. 103(a) prior art against the present application.

In preparing a response to the 10/28/2008 office action, Applicant became aware of an error in the file date listed on the present file wrapper. As shown on the cover page of the 10/28/2008 office action, the filing date is listed as 06/28/2006. Applicant believes this to be in error and submits herein a copy of the NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495, dated 01/11/2007 which shows the US filing date as 06/16/2004, and lists the priority date of the present application as 08/27/2003. Applicant requests the file date on the file wrapper be changed to 06/16/2004.

The publication date of Liu (US 6,737,444) was May 18, 2004, claiming priority to Jan 16, 2003. The present application was filed as a U.S.C. 371 national stage application of PCT/US04/18974, which claims priority to US 60/498,240 filed August 27, 2003. Thus, the present application was filed before publication of Liu. Since Liu has an earlier priority date but a later publication date vs the present application, Applicant believes Liu can only qualify as 102 (c)/103 prior art if the subject matter was not commonly owned. Applicant confirms herein that the subject matter of Liu (US 6,737,444) and the present application was indeed commonly owned at the time of invention. That is, both Liu and the present inventors were obligated to assign their inventions to Dow Corning Corporation. The assignments for each are of record with the USPTO. The assignment for the present application was recorded on 11/29/2004 on reel/frame 015411/0851. The assignment for Liu was recorded on Jan 16, 2003 on reel/frame 013687/0412.

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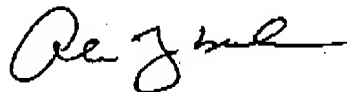
Therefore, Applicant believes Liu does not qualify as 35 U.S.C. 103(a) prior art and requests reconsideration.

The present response is being submitted within the three-month shortened statutory period for response to the outstanding Office Action. Applicant authorizes the USPTO to charge deposit account 04-1520 for any fees that should be necessary to maintain the pendency of the application.

In view of the above, it is respectfully submitted that the claims are in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

DOW CORNING CORPORATION



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U.S. APPLICATION NUMBER NO.		FIRST NAMED APPLICANT		ATTY. DOCKET NO.	
10/566,627		Donald Taylor Liles		DC5156 PCT1	
INTERNATIONAL APPLICATION NO.					
PCT/US04/18974					
I.A. FILING DATE			PRIORITY DATE		
05/16/2004			08/27/2003		

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CONFIRMATION NO. 7119

371 ACCEPTANCE LETTER

0000000021911687

Date Mailed: 01/11/2007

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

06/28/2006	06/28/2006
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** *The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).* Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 01/30/2006
- Copy of the International Search Report filed on 06/28/2006
- Preliminary Amendments filed on 01/30/2006
- Information Disclosure Statements filed on 01/30/2006
- Oath or Declaration filed on 06/28/2006
- U.S. Basic National Fees filed on 01/30/2006

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed